IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

(1) S.B. CIVIL WRIT PETITION NO. 946/2007
(The Commissioner Municipal Corporation, Jodhpur)
Vs.
Industrial Tribunal Cum Labour Court, Jodhpur & Ors.)

(2) S.B. CIVIL WRIT PETITION NO. 4898/2006
(Pukh Raj Taparia Vs. State of Rajasthan and Anr.)

Date of Order : 05/04/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Kailash Joshi for the Municipal Corporation.
Mr. Vijay Mehta for the workman Pukhraj Taparia.
Mr. B.L.Tiwari, Dy. G.A. for the State of Rajasthan.

BY THE COURT:-

Both these writ petitions under Article 226 and 227 of the Constitution of India involve common question of law and facts and arise out of the one and the same award passed by the respondent Industrial Tribunal Cum Labour Court, Jodhpur (for short 'the labour court' hereinafter) dated 5.8.2003 and therefore, the same are being heard and decided together.

The facts and circumstances of the case giving rise to the instant writ petitions are that the Appropriate Government, Govt. of Rajasthan, vide its notification dated 29.12.2000 made

a reference to the respondent Labour Court as to whether the denial of payment of salary to the workman from 1.6.1986 to 31.12.1997 and other allowances like uniform and stitching charges, surrender leave, washing allowance, bonus etc. is valid and legal or not. On receipt of the reference, the respondent labour court issued notices to the parties. The workman filed his statement of claim and the employer Commissioner, Municipal Corporation filed a reply to the same. Both the parties led evidence before the labour court by filing affidavits and by the award impugned dated 5.8.2003, the labour court answered the reference in favour of the workman. Aggrieved by the award impugned dated 5.8.2003 passed by the respondent labour court, the employer has filed S.B.Civil Writ Petition No.946/07 and the award having not been complied with and implemented, the workman has filed S.B.Civil Writ Petition No.4898/06 seeking implementation of the award.

I have heard learned counsel for the parties.

The workman came with the case by way of filing statement of claim that he was initially appointed on 2.11.1973 on daily wages basis by the employer Municipal Corporation, Jodhpur. He was given appointment on the post of Class IV employee by order dated 1.5.1982 in the pay scale of Rs. 350-5-430 and other admissible allowances. The workman earlier moved the labour court for payment of salary by way of filing an

application under Section 33 (c) (2) of the Industrial Disputes Act, 1947 (for short 'the ID Act' hereinafter). By order dated 27.4.1985, the employer was directed to pay the amount determined by the labour court amounting to Rs. 2,48,496/- which has been paid to the workman. However, again, the employer discontinued making the payment of salary and other allowances as noticed above, therefore, the workman approached the State Government for making reference to the labour court. The workman filed his own affidavit and the employer filed the affidavit of one Shri Purushotamdas Goyal, however, despite several opportunities, he did not come for cross-examination. The workman was put to cross-examination on his affidavit. The labour court on appreciation of the evidence produced by the parties, came to the conclusion that the workman is entitled for the salary w.e.f. 01.6.1986 to 31.12.1997 amounting to Rs. 2,48,496/- and the other allowances for uniform, washing allowance, surrender leave, bonus etc. and accordingly adjudicated the matter and answered the reference in favour of the workman.

I have carefully gone through the various documents placed on record along with the writ petition filed by the parties.

In my view, the conclusion arrived at by the respondent labour court is based on sound and proper appreciation of the evidence produced by the parties and as such

the finding of fact arrived at by the labour court cannot be said to be faulty in any manner. In the circumstances, therefore, the writ petition filed by the employer has no merit and deserves to be dismissed and the writ petition filed by the workman deserves to be allowed.

In the result, S.B.Civil Writ Petition No. 946/07 filed by the employer, Commissioner, Municipal Corporation, Jodhpur is dismissed and the S.B.Civil Writ Petition No.4898/06 filed by the workman is allowed and the employer, Commissioner, Municipal Board, Jodhpur is directed to pay the amount determined by the labour court to the workman within a period of three months from today. Stay petition filed in S.B.C.Writ Petition No.946/07 also stands dismissed. No order as to costs.

(H.R.PANWAR),J.

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